



Testimony of AARP Connecticut in **SUPPORT** of  
HB 6619, *An Act Concerning Banning Pay for Delay*  
Insurance and Real Estate Committee, February 14, 2023

Good afternoon, Senator Cabrera, Representative Wood, Ranking Members, and Members of the Insurance and Real Estate Committee:

AARP is a nonpartisan, nonprofit organization with nearly 38 million members nationwide and nearly 600,000 here in Connecticut. We appreciate the opportunity to share comments in support of HB 6619, An Act Concerning Banning Pay for Delay.

We are paying more for nearly everything today – from groceries to gas to housing. For older adults, the problem of inflation is only made worse by the ever-increasing price of prescription drugs. Expensive prescription drugs have a real impact on Connecticut residents, including these AARP members who have shared their stories with us in recent months:

- “Since I retired due to my Parkinson's, I have paid more than \$20,000 annually for out-of-pocket prescription drugs and drugs used for procedures for my Parkinson's. Some medications alone cost close to \$400. I live alone and always pay my bills but have had to tap into my 401Ks to do so. Money taken out of my 401Ks places me in a higher income tax bracket, so I don't qualify for any assistance from programs or drug companies.” – Regina
- “Our cardiologist prescribed a new medication to my wife and I, which treats high cholesterol in adults without the muscle pains. He ordered it for us both, but the cost was \$424.37 for a 30-day supply for each of us, totaling \$848.74 per month. That would be \$5,092.44 each, per year, totaling \$10,184.88 a year for the two of us. Because of the extremely high price our insurance company refused to cover the cost. Being retired on a fixed income we simply cannot afford it.” – Rich
- “Their greed has depleted my savings account. It is becoming increasingly difficult to decide who gets paid on time and who will not...Most seniors find themselves struggling to make ends meet.” – Karen
- “We have gone thru our savings and have one more credit card we are saving for oil. I just hope we don't lose our home and vehicles when we have to file bankruptcy.” – Justine
- “The inability to pay high costs has resulted in the death of a 50-year-old family member--so sad, so avoidable! Unknown to family, she stopped taking her medicine and was found dead in her apartment. In this case greed caused death.” – Margot

Generic drugs “provide safe and effective alternatives to brand name drugs at lower costs through an abbreviated approval process.”<sup>1</sup> They are a critical component of the US healthcare system, accounting for approximately 90% of all prescriptions dispensed and demonstrating

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<sup>1</sup> <https://www.fda.gov/drugs/news-events-human-drugs/our-perspective-importance-physical-characteristics-generic-drugs>

improved adherence compared to brand-name drugs, likely because of their lower prices.<sup>2</sup> Bringing more generic drugs to market is an important way to reduce healthcare costs and ensure that people of all ages can afford to take the medications they need to stay healthy. HB 6619 would address a type of anti-competitive practice called a “pay-for-delay agreement” that lengthens the amount of time it takes for cost-saving generic drugs to enter the marketplace.

A pay-for-delay agreement is an arrangement between a brand name drug manufacturer and a competing generic drug manufacturer by which the generic drug manufacturer agrees to delay the release of a generic equivalent drug in exchange for something of value from the brand name drug manufacturer, such as money or a promise of limited legal action. According to the Federal Trade Commission, pay-for-delay agreements have significantly postponed substantial consumer savings from lower generic drug prices. A study by the agency found that delays to generic drugs from being released cost consumers \$3.5 billion in higher costs each year.<sup>3</sup>

HB 6619 would prohibit such agreements and allow the state to seek penalties for any violations. This legislation creates the presumption that a patent settlement agreement between a generic and brand name manufacturer has an anticompetitive effect and is a violation of state law if a generic manufacturer receives anything of value from another company or agrees to limit or forego research, development, manufacturing, marketing, or sales of the product for any amount of time. The bill provides exceptions for certain agreements that generate procompetitive benefits or involve a set of defined items that do not fall under the term “anything of value.” It also sets forth the criteria by which a third party “factfinder” can determine whether a patent settlement agreement is anticompetitive.

Connecticut has considered similar legislation in past years, as have Montana, New York, and Oregon. The US Congress has also introduced legislation that would ban pay-for-delay deals.

While we support HB 6619 as written, we believe the bill would be strengthened by including a severability clause such as the following:

*The provisions of this act are severable. If any provision of this act or its application is held invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.*

Thank you for the opportunity to share our comments regarding HB 6619, *An Act Concerning Banning Pay for Delay*. We appreciate the Committee’s interest in lowering prescription drug prices, and we hope you will join us in strong support of this important legislation.

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<sup>2</sup> <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC6415809/>

<sup>3</sup> <https://www.ftc.gov/reports/pay-delay-how-drug-company-pay-offs-cost-consumers-billions-federal-trade-commission-staff-study>